

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ALBERTO ESCAMILLA §
VS. § CIVIL ACTION NO. 1:06cv196
UNITED STATES OF AMERICA §

MEMORANDUM ORDER OVERRULING OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Alberto Escamilla, an inmate confined within the Bureau of Prisons, proceeding *pro se*, filed the above-styled motion to vacate, set aside or correct sentence. The court referred the matter to the Honorable Earl S. Hines, United States Magistrate Judge, for consideration pursuant to applicable orders of this court.

The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this case. The magistrate judge recommends the motion to vacate, set aside or correct sentence be denied.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the records, pleadings and all available evidence. Movant filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections in light of the pleadings and the applicable law. After careful consideration, the court is of the opinion the objections are without merit. The magistrate judge correctly concluded movant's plea of guilty was not involuntary. In addition, as movant did not plead guilty to a charge of conspiracy, the court was not required to inform him of the elements of this offense. Finally, movant has failed to demonstrate his counsel was ineffective.

ORDER

Accordingly, the objections are **OVERRULED**. The proposed findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is

ADOPTED. A final judgment will be entered denying this motion to vacate, set aside or correct sentence.

So **ORDERED** and **SIGNED** this 7 day of **August, 2008**.



Ron Clark, United States District Judge